

Notice of Allowability

Application No.

10/716,470

Applicant(s)

GUNJI ET AL.

Examiner

Art Unit

Delia M. Ramirez

1652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 9/4/2007.
2. ☒ The allowed claim(s) is/are 1 and 8-12.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some* c) ☐ None of the:
- ☒ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

DETAILED ACTION

Status of the Application

Claims 1, 8-12 are pending.

Product claims 1 and 10 are deemed allowable. Withdrawn claims 8-9, 11-12, directed to methods which include all the limitations of the allowable product claims are hereby rejoined for examination on the merits in accordance with MPEP 821.04. The restriction requirement between claims 1, 10 (Group I) and method claims 8-9, 11-12 (Group II) is hereby withdrawn.

Terminal Disclaimer

1. The terminal disclaimers filed on 9/4/2007 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of (1) U.S. Patent No. 7169587, and (2) any patent granted on copending application No. 11/563289 have been reviewed and are accepted. The terminal disclaimers have been recorded.

Reasons for Allowance


2. The following is an Examiner's statement of reasons for allowance. Claims 1 and 10 were provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 5, 7, 9, 11 of copending Application No. 11/563289. Claims 1 and 10 were rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 8-11 of U.S. Patent No. 7169587. In view of Applicant's submission of terminal disclaimers disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of (1) U.S. Patent No. 7169587, and (2) any patent granted on copending application No. 11/563289, these rejections are hereby withdrawn. In addition, the Examiner has found no teaching or suggestion in the prior art directed to a nucleic acid encoding the polypeptide of SEQ ID NO: 10.

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Therefore, claims 1, 8-12 directed to a *Methylobacillus* transformed with a nucleic acid that encodes the polypeptide of SEQ ID NO: 10, and a method for producing L-lysine or L-arginine by culturing said *Methylobacillus* are allowable over the prior art of record.

Conclusion

3. Claims 1, 8-12 are allowed.
4. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."
5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Delia M. Ramirez whose telephone number is (571) 272-0938. The examiner can normally be reached on Monday-Friday from 8:30 AM to 5:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dr. Ponnathapura Achutamurthy can be reached on (571) 272-0928. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-1600.



Delia M. Ramirez, Ph.D.
Primary Patent Examiner
Art Unit 1652

DR
October 24, 2007